

Arizona orders Qwest to pay \$20.7 million

Penalty and credits are related to telco's 'secret' carrier deals

By Jeff Smith, Rocky Mountain News
April 22, 2004

Arizona regulators on Wednesday ordered Qwest Communications to pay \$20.7 million in fines and credits for willfully engaging in secret and preferential deals with Eschelon Communications and McLeod USA.

By a unanimous 4-0 vote, the Arizona Corporation Commission fined Qwest \$9 million and ordered the Denver telco to issue credits totaling nearly \$11.7 million to carriers who were denied equal treatment as called for by federal law and state rules.

The \$9 million penalty was reduced by \$2 million when Qwest agreed not to appeal the decision to the courts.

Arizona Commissioner Jeff Hatch-Miller said he thought the fine was the largest ever imposed by the commission and sends a strong message that Qwest's behavior was unacceptable and anti-competitive.

"We maintained the findings of wrongdoing - that was a key to those of us on the commission," Hatch-Miller said in a telephone interview.

Hatch-Miller estimated that 15 to 25 carriers will share in the credits. Companies now bankrupt will get a cash payment, he said.

Qwest, which also agreed in Arizona to an independent monitor of its wholesale program for three years, is happy to put the case behind it, its Arizona spokesman, Jeff Mirasola, said.

"We can now move forward and put our resources where they need to be - to provide better services here and to expand services," Mirasola said.

Many carriers need to rent or buy pieces of Qwest's network in order to sell competitive services. The federal Telecommunications Act of 1996 required Qwest and other Bells to offer similar terms to all competitors.

Regulators contend that some agreements effectively bought the silence of competitors during Qwest's bid to re-enter the long-distance market.

Besides giving discounts to some, Qwest also was found to have failed to disclose numerous agreements as required.

Tom Pelto, AT&T vice president of law and government affairs, said in a statement that the Arizona decision was fair and reasonable.

The commission, Pelto said, "has joined a select few state commissions that have been willing to take Qwest to task rather than turning a blind eye to their misdeeds. This commission rightfully recognized that the consumers and competitors of Arizona have been harmed by Qwest's actions."

Last year, Minnesota regulators fined Qwest \$26 million in connection with the so-called secret deals and ordered the telco to pay millions of dollars in credits. Qwest appealed the decision.

Qwest last week agreed to settle similar allegations in Colorado by paying \$5.5 million into a low-income telephone assistance fund, \$2 million into a nonprofit emergency 911 resource center and issuing an undisclosed amount of credits to eligible competitors.

The Colorado settlement agreement must be approved by the Colorado Public Utilities Commission.

New Mexico and Washington still are investigating the issue, while Iowa and South Dakota decided not to impose fines.